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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 23rd September, 1965/*Asvina* 1, 1887 (*Saka*)

The following Act of Parliament received the assent of the President on the 22nd September, 1965, and is hereby published for general information:—

THE GOLD (CONTROL) ACT, 1965

No. 18 OF 1965

[*22nd September,* 1965]

An Act to provide, in the economic and financial interests of the community, for the control of the production, supply, distribution, use and possession of, and business in, gold and ornaments and other articles of gold and for matters connected therewith.

BE it enacted by Parliament in the Sixteenth Year of the

Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent, application and commencement.

1. (*1*) This Act may be called the Gold (Control) Act, 1965.

(*2*) It extends to the whole of India and it applies also to citizens of India outside India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Administrator" means the Administrator appointed under section 18;

(*b*) "company" means any company as defined in section 3 of the Companies Act, 1956; 1 of 1956.

(*c*) "certified goldsmith" means a dealer who holds a valid certificate granted or deemed to be granted under section 13 recognising him as a goldsmith;

(*d*) "dealer" means any person who carries on, directly or otherwise, the business of—

(*1*) making, manufacturing, preparing, buying, selling, supplying, distributing, melting, processing or converting ornaments;

(*2*) buying, selling, supplying or distributing gold for the purpose of making, manufacturing or preparing ornaments;

(*3*) melting, processing or converting gold for the purpose of making, manufacturing or preparing ornaments,

whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration, and includes—

(*a*) an undivided Hindu family which carries on such business;

(*b*) a local authority, company, society registered under the Societies Registration Act, 1860, co-operative society registered under any law with respect to co-operative societies, club, firm or other association which carries on such business, or 21 of 1860

(*i*) buys ornaments, or gold for the purpose of making ornaments, from, or

(*ii*) makes or manufactures ornaments for,

(*iii*) processes, melts or converts ornaments, or gold for the purpose of making ornaments, for

(*iv*) sells, supplies or distributes ornaments, or gold for the purpose of making ornaments, to,

its members; and

(*c*) a commission agent, broker, *del credere* agent, auctioneer or other mercantile agent, by whatever name called, who carries on such business on behalf of any principal;

but does not include the Reserve Bank of India, the State Bank of India, any subsidiary bank as defined in clause (*k*) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959, or any banking company as defined in clause (*c*) of section 5 of the Banking Companies Act, 1949, in so far as such bank sells or transfers of exhibits for sale or transfer any gold.

38 of 1959.

10 of 1949

Explanation.—For the purposes of this Act—

(*a*) every person who acts as an agent of a dealer residing outside India and carries on the business of such dealer in India or acts on behalf of such dealer as—

(*i*) a mercantile agent as defined in the Sale of Goods Act, 1930; or

3 of 1930

(*ii*) an agent for handling gold or documents of title relating to gold; or

(*iii*) an agent for the collection or payment of sale price of gold or as a guarantor for such collection or payment; **and**

(*b*) every branch in India of a firm or company having its registered office outside India,

shall be deemed to be a dealer;

(*e*) "gold" means gold, including its alloy, whether virgin, melted, re-melted, wrought or unwrought in any shape or form, of a purity of not less than nine carats and includes any gold coin (whether legal tender or not), any ornament and any other article of gold;

(*f*) "ornament" means any article in a finished form, meant for personal adornment or for the adornment of any idol, deity or any other object of religious worship, made of, or manufactured from, gold, whether or not set with stones or gems, real or artificial, or with pearls, real, cultured or imitation or with all or any of them and includes parts, pendants or broken pieces of ornaments;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "primary gold" means gold in any unfinished form and includes all ingots, bars, blocks, slabs, billets, shots, pellets, rods

and wires;

(*i*) "refiner" means the owner or occupier of a refinery;

(*j*) "refinery" means a place where gold is melted, assayed, refined, alloyed or subjected to any other process for the purpose of making primary gold and includes a place where gold is assayed at the request of any dealer or other person, whether for the purpose of making primary gold or not, but does not include any place used by a dealer for the purposes permitted under clause (*d*).

CHAPTER II

CONTROL OF BUSINESS IN GOLD

Prohibition of manufacture of articles of gold in certain cases.

3. (*1*) Subject to the other provisions of this Act,—

(*a*) a dealer shall not make, manufacture or prepare—

(*i*) any article of gold other than ornament, or

(*ii*) any article containing gold of any purity;

(*b*) a refiner shall not make, manufacture or prepare—

(*i*) any article of gold other than primary gold, or

(*ii*) any article containing gold of any purity; and

(*c*) any other person shall not make, manufacture or prepare any article of gold or any article containing gold of any purity,

unless such dealer, refiner or other person is, on an application made by him in this behalf (which shall be accompanied by such fee as the Administrator may by direction specify and different fees may be specified for different classes of cases), authorised by the Administrator, by general or special order, to make, manufacture or prepare such article; and in granting such authorisation, the Administrator may, by the order aforesaid, also require such dealers, refiners or other persons or any class of them to pay such charges for supervision by the Administrator as may be specified in such order.

(*2*) A certified goldsmith may, and no other dealer shall, accept any ornament having gold of a purity exceeding fourteen carats for polishing or repair.

(*3*) A dealer (including a certified goldsmith) may accept any ornament having gold of any purity for the purpose of making, manufacturing or preparing new ornament or ornaments having gold of a purity not exceeding fourteen carats:

Provided that a certified goldsmith may, in accordance with the provisions of section 13, accept any ornament having gold of a purity exceeding fourteen carats for the purpose of making, manufacturing or preparing new ornaments having gold of a purity exceeding fourteen carats.

Restrictions on the making, etc., of ornaments and other articles of gold.

4. (*1*) Save as provided in section 13,—

(*a*) no dealer, whether licensed under this Act or not, shall—

(*i*) make, manufacture or prepare, or

(*ii*) sell or otherwise transfer, agree to sell or otherwise transfer, or expose or offer for sale or transfer, and

(*b*) no person shall place any order with any dealer, whether licensed under this Act or not, for the making, manufacture or preparation of,

any ornament having gold of a purity exceeding fourteen carats.

(*2*) No person shall make or manufacture any article of gold of a purity exceeding fourteen carats:

Provided that—

(*i*) any refiner may, if authorised by the Administrator to do so by general or special order, make, manufacture or have in his possession, custody or control any primary gold containing gold of a purity exceeding fourteen carats, and

(*ii*) any refiner or dealer who as such refiner or dealer acquires or comes into the possession of any primary gold, or ornament or other article of gold, of a purity exceeding fourteen carats under any provision of this Act shall convert that gold, ornament or article into gold of a purity not exceeding fourteen carats within such period as the Administrator may by general or special order grant.

(*3*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), the Administrator may by general or special order permit any person to make, manufacture or prepare any ornament, or other article of gold, of a purity exceeding fourteen carats subject to such conditions (including conditions as to the payment of any fee or charges for supervision) and restrictions as may be specified in the order.

(*4*) Every person who makes, manufactures or sells any primary gold shall, unless the Administrator by notification in the Official Gazette otherwise directs, put a stamp on each piece of primary gold,—

(*i*) certifying the purity of gold contained in such primary gold and the date of making or manufacturing thereof; and

(*ii*) containing such descriptive and other particulars which may enable the identification of the maker or manufacturer of such primary gold, as may be prescribed.

(*5*) No stamp referred to in sub-section (*4*) shall be used in stamping any primary gold unless such stamp has been approved and registered by the Administrator.

Restrictions on possession and sale of gold.

5. (*1*) Except in the case of any quantity of gold acquired after the date of making any return under this Act, no dealer, and no refiner, who is licensed under this Act, shall have in his possession or under his control any gold which has not been included in such return:

Provided that any gold acquired after the date of making such return shall be included in the next succeeding return.

(*2*) Save as otherwise provided in this Act,—

(*a*) a refiner may sell or deliver gold only to a dealer licensed under this Act in accordance with the conditions and restrictions, if any, contained in the dealer's licence but shall not sell or deliver gold to any other person:

Provided that a refiner may sell gold to any person on production by that person of a permit granted by the Administrator in this behalf or to such other person as the Administrator may, by general or special order, authorise in this behalf;

(*b*) a dealer licensed under this Act may, in accordance with the conditions and restrictions, if any, contained in his licence, buy or otherwise acquire, or agree to buy or otherwise acquire, gold, not being ornament, only from a dealer, or refiner, licensed under this Act but not from any other person:

Provided that any such dealer may buy or otherwise acquire or accept gold, not being ornament, from any person if such gold has been included in a declaration made by that person under Part XIIA of the Defence of India Rules, 1962, or under section 16, or if in respect of such gold no such declaration is required and the dealer complies with the provisions of sub-section (*3*);

(*c*) a dealer licensed under this Act may, in accordance with the conditions and restrictions, if any, contained in his licence—

(*i*) sell or otherwise transfer, or agree to sell or otherwise transfer, or

(*ii*) expose or offer for sale or transfer,

gold, not being ornament, only to a dealer, or refiner, licensed under this Act but not to any other person:

Provided that a dealer licensed under this Act may sell gold, not being ornament, to any person on production by that person of a permit granted by the Administrator in this behalf;

(*d*) a person other than a dealer licensed under this Act shall not buy or agree to buy or otherwise acquire or agree to acquire gold, not being ornament, except in accordance with a permit granted by the Administrator or in accordance with

such authorisation as the Administrator may, by general or special order, make in this behalf, nor shall he otherwise acquire or agree to acquire such gold except by succession, intestate or testamentary:

Provided that a refiner may buy or accept gold from a dealer licensed under this Act;

(*e*) a person acquiring gold in accordance with any general or special authorisation made by the Administrator shall not—

(*i*) sell or otherwise transfer, or agree to sell or otherwise transfer, or

(*ii*) expose or offer for sale or transfer,

such gold to any person other than a person authorised by the Administrator by general or special order in this behalf.

(*3*) Any gold (other than ornament) which is not required to be declared under this Act may be sold or otherwise transferred or hypothecated, pledged, mortgaged or charged but the person to or with whom such gold is sold or otherwise transferred or hypothecated, pledged, mortgaged or charged shall give to such officer as may be authorised by the Administrator in this behalf, intimation thereof in such form and manner and within such period as may be prescribed.

Prohibition of loans on hypothecation of gold.

6. (*1*) No person shall make, advance or grant any loan to any other person on the hypothecation, pledge, mortgage or charge of any gold other than ornament unless the person making, advancing or granting the loan gives intimation thereof in accordance with sub-section (*3*) of section 5 or unless such gold has been included, if so required, in a declaration or a further declaration made under Part XIIA of the Defence of India Rules, 1962, or under section 16.

(*2*) No person who is a dealer, whether licensed or not, shall—

(*a*) carry on business as a dealer in the same premises in which he or any other person carries on business as a money-lender or banker involving the hypothecation, pledge, mortgage or charge of any gold,

(*b*) (*i*) sell or otherwise transfer to any person any gold on the hypothecation, pledge, mortgage or charge of which he has advanced any loan, whether before or after the 10th day of January, 1963, or

(*ii*) return such gold to the borrower, whether before or after the repayment of the loan,

except under and in accordance with such conditions, limitations or restrictions, if any, as may be imposed by the Administrator in this behalf.

(3) No pawnee who is not a dealer shall sell any gold pledged with him, on the failure of the pawnor to redeem such gold, except in accordance with such conditions as may be prescribed.

CHAPTER III

LICENSING OF DEALERS AND REFINERS AND CERTIFICATION OF GOLDSMITHS

Licensing of dealers.

7. (1) Save as otherwise provided in this Act, no dealer who is registered under any law with respect to sales tax shall carry on business as such dealer unless he holds a valid licence issued in this behalf by the Administrator.

(2) A licence issued under sub-section (1) may contain such conditions and restrictions as the Administrator may think fit to impose and different conditions and restrictions may be imposed for different classes of dealers.

(3) Every dealer who is registered under any law with respect to sales tax shall, as soon as possible after such registration and in any case before the expiry of sixty days thereafter, make to the Administrator an application in such form and on payment of such fee as may be prescribed, for the issue of a licence under this section.

(4) Any dealer who is not required to be registered under any law with respect to sales tax may, if he likes, also make to the Administrator an application in accordance with the foregoing provisions for the issue of a licence under this section and any licence issued in pursuance of such application may contain such conditions and restrictions as the Administrator may think fit to impose and different conditions and restrictions may be imposed for different classes of applicants.

(5) Nothing in the foregoing provisions of this section shall be deemed to prohibit any dealer who is required to apply for a licence under this section from carrying on his business as such dealer for the period within which he is required to apply for such licence and if he has applied for such licence, until he is granted a licence or is, by a notice in writing, informed by the Administrator that a licence cannot be granted to him.

(6) On the receipt of an application for the issue of a licence under this section, the Administrator may, after making such inquiry, if any, as he may consider necessary, by order in writing either grant the licence or reject the application for the same:

Provided that no application for the issue of a licence made by a dealer registered under any law with respect to sales tax whether before or after the commencement of this Act shall be rejected unless the Administrator is satisfied that any statements made in the application for the issue of the licence are incorrect or false in material particulars or that the applicant for the licence has contravened any

of the provisions of this Act or the provisions of any other law for the time being in force in so far as it prohibits or restricts the bringing into or taking out of India of any goods (including coins, currency, whether Indian or foreign, and foreign exchange), or the dealings in such goods by way of acquisition or otherwise and unless the applicant for the licence has been given a reasonable opportunity of showing cause against such rejection.

(7) A licence granted under this section shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fee as may be prescribed and the provisions of this section relating to the first issue of a licence shall apply as far as may be in relation to such renewal.

(8) In the case of any dealer who immediately before the date of coming into force of this Act was licensed as a dealer under Part XIIA of the Defence of India Rules, 1962, the provisions for the application of a licence shall not apply and the licence of such dealer may be renewed on the expiration thereof in accordance with the provisions contained hereinbefore.

Licensing of refiners.

8. (1) Save as otherwise provided in this Act, no person shall carry on business as a refiner unless he holds a valid licence issued in this behalf by the Administrator.

(2) A licence issued under sub-section (1) may contain such conditions and restrictions as the Administrator may think fit to impose and different conditions and restrictions may be imposed for different classes of refiners.

(3) Every person who intends to carry on business as a refiner may, if he had a refinery in existence immediately before the 10th day of January, 1963, make to the Administrator an application in such form and on payment of such fee as may be prescribed, for the issue of a licence under sub-section (1).

(4) A person to whom a licence to carry on business as a refiner is issued under sub-section (1) shall not carry on business as such refiner in the same premises in which he or any other person carries on business as a dealer or business as a money-lender or banker involving the hypothecation, pledge, mortgage or charge of any gold.

(5) Notwithstanding anything contained in sub-section (1), a refiner who has made an application under sub-section (3) for the issue of a licence to carry on business, may carry on business as a refiner, pending the grant of a licence unless he is, by a notice in writing, informed by the Administrator that the application has been rejected.

(6) No person shall establish any refinery unless he has obtained a valid licence from the Administrator on an application in accord-

ance with the foregoing provisions for the issue of a licence under this section.

(7) On the receipt of an application for the issue of a licence under this section, the Administrator may, after making such inquiry, if any, as he may consider necessary, by order in writing either grant the licence or reject the application for the same:

Provided that no application for the issue of a licence made by a refiner shall be granted unless the Administrator is satisfied having regard to—

(*a*) the number of refineries existing in the area in which the applicant intends to carry on business as a refiner,

(*b*) the demand for primary gold in that area,

(*c*) the facilities existing in that area for the assay of gold by any method other than the touch-stone method,

(*d*) the turnover of the applicant during the year immediately before the 10th January, 1963, or immediately before the date of the application for the issue of the licence, whichever is later,

(*e*) the suitability or otherwise of the applicant, and

(*f*) the public interest,

that the licence applied for should be granted:

Provided further that no application for the issue of a licence made by a refiner shall be rejected unless the applicant has been given a reasonable opportunity of showing cause against such rejection.

(8) A licence granted under this section shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fee as may be prescribed and the provisions of this section relating to the first issue of a licence shall apply as far as may be in relation to such renewal.

(9) In the case of any refiner who immediately before the date of coming into force of this Act was licensed as a refiner under Part XIIA of the Defence of India Rules, 1962, the provisions for the application of a licence shall not apply and the licence of such refiner may be renewed on the expiration thereof in accordance with the provisions contained hereinbefore.

Cancellation of licences by Administrator.

9. A licence granted under section 7 or section 8 may be cancelled by the Administrator if he is satisfied that any statements made in the application for the issue of the licence or in relation to the licence are incorrect or false in material particulars or that the holder of the licence has contravened any of the provisions of this Act

or the provisions of any other law for the time being in force in so far as it prohibits or restricts the bringing into or taking out of India of any goods (including coins, currency, whether Indian or foreign, and foreign exchange), or the dealings in such goods by way of acquisition or otherwise:

Provided that no licence shall be cancelled unless reasonable opportunity has been given to the holder thereof to show cause why the licence shall not be cancelled.

Cancellation of licence on application by dealer or refiner.

10. A dealer who ceases to be registered under any law with respect to sales tax or who discontinues his business in gold or a refiner who discontinues his business as such may make an application to the Administrator for cancellation of his licence as dealer or refiner, as the case may be, and thereupon the Administrator may cancel his licence.

Disposal of gold in the possession of dealers or refiners in certain cases.

11. A dealer who, being required by section 7 to make an application for a licence, has failed to do so within the period specified therefor or whose application for the issue of a licence has been rejected or whose licence has been cancelled or a refiner whose application for the issue of a licence under section 8 has been rejected or whose licence has been cancelled shall not, after the expiry of that period or after such rejection or cancellation, as the case may be, carry on his business and shall, within thirty days from the date of such expiry, rejection or cancellation, sell or otherwise transfer to any dealer or refiner licensed under this Act the entire quantity of gold including ornaments, in his possession on the date of such expiry, rejection or cancellation and send intimation thereof to the Administrator.

Display of licences.

12. Every dealer and every refiner who is licensed under this Act shall display his licence at a conspicuous place of the premises in which the business of such dealer is carried on or the premises in which the refinery is located.

Certified goldsmiths.

13. (*1*) A dealer who is not required by sub-section (*3*) of section 7 to make an application for the issue of a licence under that section and has not obtained any licence in pursuance of an application made by him under sub-section (*4*) of that section and who does not employ more than one hired labourer in actually making, manufacturing or preparing any ornament and is not himself in the employment of another dealer may, if he was carrying on business as a dealer for more than a year immediately before the 10th day of January, 1963,—

(*a*) accept from any person, not being a refiner or a certified goldsmith or other dealer, any ornament or ornaments having

gold of a purity exceeding fourteen carats for the purpose of making, manufacturing or preparing, and

(*b*) make, manufacture or prepare,

new ornament or ornaments from that ornament or those ornaments subject to such restrictions relating to the purity and weight of gold contained in the new ornament or ornaments as may be prescribed.

(2) No such dealer shall after the commencement of this Act accept any such ornament or ornaments for the purpose of making, manufacturing or preparing new ornament or ornaments as aforesaid, unless he has before such commencement obtained under Part XIIA of the Defence of India Rules, 1962, a certificate recognising him as a goldsmith:

Provided that if the Administrator considers it necessary in the public interest so to do, he may, on application made to him in this behalf by a dealer, grant to him a certificate recognising him as a goldsmith in such form and on payment of such fee as may be prescribed.

(3) A certificate granted under Part XIIA of the Defence of India Rules, 1962, shall, unless the context otherwise requires, be deemed for the purposes of this Act to be a certificate granted under this section.

(4) A certificate granted under this section shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fee as may be prescribed.

(5) A certificate granted under this section may be cancelled by the Administrator—

(*i*) if the certified goldsmith is, at any time after the grant of the certificate to him, registered under any law with respect to sales tax, or

(*ii*) on an application made to the Administrator for such cancellation by the certified goldsmith who ceases to work as a goldsmith, or

(*iii*) if the Administrator is satisfied that any statements made in the application for the issue of the certificate or in relation to the certificate are incorrect or false in material particulars or that the holder of the certificate has contravened any of the provisions of this Act:

Provided that no certificate shall be cancelled under clause (*i*) or clause (*iii*), unless reasonable opportunity has been given to the holder thereof to show cause why the certificate shall not be cancelled.

(6) Every certified goldsmith shall have in his possession the certificate granted to him while he carries on business as such goldsmith and shall produce it for inspection on demand by any officer authorised by the Administrator in this behalf.

(7) Notwithstanding anything contained in section 4, a certified goldsmith may have in his possession, custody or control primary gold of a purity exceeding fourteen carats by melting or processing or converting any ornament which has been accepted by him under this section for making, manufacturing or preparing new ornament or ornaments:

Provided that a certified goldsmith shall not have at any time in his possession, custody or control any quantity of such primary gold in excess of one hundred and fifty grammes obtained in the process of making, manufacturing, or preparing new ornament or ornaments.

(8) A dealer who may, in accordance with the provisions of this section, accept any ornament or ornaments having gold of a purity exceeding fourteen carats for the purpose of making, manufacturing or preparing new ornament or ornaments having gold of a purity exceeding fourteen carats, may send to any other such dealer who possesses equipments for drawing wires or casting dies, or who is a specialist in stone setting, enamelling or polishing,—

(a) the ornament or ornaments so accepted, whether before or after melting, for the purpose of drawing wires or casting dies; or

(b) where new ornament or ornaments have been made, manufactured or prepared out of the ornament or ornaments so accepted, such new ornament or ornaments for setting stones, enamelling or polishing;

and such other dealer shall, after drawing wires or casting dies or, as the case may be, after setting stones, enamelling or polishing, return them to the dealer from whom they were received.

Registration and certification of dealers not falling under section 7 or 13.

14. (1) No dealer who has not obtained a licence under section 7 or a certificate under section 13 shall carry on business as a dealer unless he has been registered and possesses a certificate.

(2) Every such dealer shall make an application for the grant of a certificate within such time, in such form and on payment of such fee as may be prescribed.

(3) If the Administrator is satisfied that an application for registration is in order, he shall, in accordance with such rules as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form:

Provided that no application for the grant of a certificate of registration shall be rejected unless the applicant has been given a reasonable opportunity of showing cause against such rejection.

(4) A certificate granted under this section shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fee as may be prescribed, and the provisions of this section relating to the first issue of a certificate shall apply as far as may be in relation to such renewal.

(5) The provisions of sections 9, 10, 11 and 12 shall, as far as may be, apply to a dealer registered under this section as they apply to a dealer licensed under section 7.

(6) Nothing in this section shall be deemed to prohibit any dealer who has been registered under this section from applying at any time for a licence under section 7 if he likes to do so and on his being licensed under section 7, the registration certificate issued to him under this section shall be cancelled.

Special provision regarding public religious institutions.

15. (1) Notwithstanding anything contained in Chapter II and the foregoing provisions of this Chapter, any public religious institution such as a temple, mutt, church, mosque, gurdwara or any other place of public religious worship, not being a dealer or refiner licensed under this Act, may receive gold of any purity in any form as offering.

(2) Any such institution—

(a) may retain the gold in the form in which it is received as offering so long as it is used exclusively for the purposes of the institution;

(b) shall not convert any gold in its possession into gold of a purity exceeding fourteen carats or make, manufacture or prepare ornament or any other article of gold of a purity exceeding fourteen carats unless such institution has been authorised by the Administrator by general or special order subject to such conditions as may be laid down, to do so;

(c) shall not sell or otherwise transfer gold in any form in its possession unless such gold has been converted into gold of a purity not exceeding fourteen carats and unless, in the case of gold other than ornament, the sale or transfer is to a dealer or refiner licensed under this Act;

(*d*) shall maintain such accounts and submit such returns as to the quantity, description and other particulars of gold possessed, received, sold or otherwise transferred by it, as may be prescribed.

(*3*) The person in charge of the management of any such institution shall be responsible for anything done or omitted to be done under this section.

CHAPTER IV

DECLARATION OF GOLD

Declaration as to possession of gold other than ornament.

16. (*1*) If any person who has made a declaration as to gold other than ornaments owned by him under Part XIIA of the Defence of India Rules, 1962, acquires by succession, intestate or testamentary, or in accordance with a permit granted by the Administrator, or parts with, after such declaration any quantity of gold, not being ornament, he shall, as often as he acquires or parts with any quantity of gold, make within thirty days from the date of such acquisition or parting with, a further declaration to the Administrator in the prescribed form stating the quantity, description and other prescribed particulars of such gold acquired or parted with by him and giving the prescribed particulars of the person from whom such gold was acquired or in whose favour such gold was parted with, as the case may be.

(*2*) If any person who did not own any gold, not being ornament, at any time during the period commencing on the 10th January, 1963, and ending with the 9th February, 1963, acquires, after the expiry of that period by succession, intestate or testamentary, or in accordance with a permit granted by the Administrator any quantity of gold, not being ornament, he shall, within thirty days from the date of such acquisition, make a declaration to the Administrator in the prescribed form stating the quantity, description and other prescribed particulars of such gold owned by him on the date of such declaration.

(*3*) If any person who has made a declaration under sub-section (*2*) acquires by succession, intestate or testamentary, or in accordance with a permit granted by the Administrator, or parts with, any quantity of gold, not being ornament, he shall, as often as he acquires or parts with any quantity of gold, make within thirty days from the date of such acquisition or parting with a further declaration to the Administrator in the prescribed form stating the quantity, description and other prescribed particulars of such gold acquired or parted with by him and giving the prescribed particulars of the

person from whom such gold was acquired or in whose favour such gold was parted with, as the case may be.

(4) For the removal of doubt, it is hereby declared that a declaration referred to in this section and section 17 shall be made—

(*a*) in the case of gold belonging to a minor or a lunatic, by the guardian or manager of such minor or lunatic, as the case may be;

(*b*) in the case of gold belonging to an idol or a deity, by the manager of such idol or deity, whether known as *shebait* or manager or by any other name;

(*c*) in the case of gold belonging to a person whose properties are under the management of a Court of Wards, by the manager of such Court;

(*d*) in the case of gold belonging to a person whose properties are under the management of any administrator or receiver, by such administrator or receiver;

(*e*) in the case of gold vested in an executor or an administrator of a will or other testamentary disposition, by such executor or administrator;

(*f*) in the case of gold belonging to the members of a firm, by any partner of such firm;

(*g*) in the case of gold belonging to an undivided Hindu family, by the head or *karta* of such family;

(*h*) in the case of gold which is the subject matter of any public or private trust, by a trustee of such trust;

(*i*) in the case of gold belonging to a company incorporated outside India, by any person in charge of the management of such company in India;

(*j*) in the case of gold belonging to a temple, mutt, church, mosque or any other religious institution by the person in charge of the management of such temple, mutt, church, mosque or other religious institution;

(*k*) in the case of gold which is wakf property, by the mutawalli of such wakf;

(*l*) in the case of gold belonging to any society, club or other association, by the secretary or manager of such society, club or other association.

(5) No person who is required to make a declaration as to gold other than ornament owned by him under the Defence of India Rules,

1962, or this section or exempted from making such declaration under the said Rules or sub-section (6) of this section shall, after the commencement of this Act, acquire any gold other than ornament except—

(a) by succession, intestate or testamentary, or

(b) in accordance with a permit granted by the Administrator in this behalf.

(6) No declaration or further declaration shall be required to be made under the foregoing provisions of this section in respect of—

(a) any gold, whether contained in one or more pieces, owned by a minor unless the weight of such gold exceeds twenty grammes;

(b) any gold, whether contained in one or more pieces, owned by an individual other than a minor unless the weight of such gold exceeds fifty grammes;

(c) any gold, whether contained in one or more pieces, referred to in clauses (b) to (l) of sub-section (4) unless the weight of such gold exceeds fifty grammes:

Provided that no declaration or further declaration as aforesaid shall be required in respect of any gold owned by a family if the total weight of such gold whether contained in one or more pieces and whether owned by a member of the family severally or by all the members jointly or partly in the one way and partly in the other, does not exceed one hundred and fifty grammes:

Provided further that where the Central Government is of the opinion that it is necessary so to do for carrying out the purposes of this Act, the Government may at any time, by general or special order, require that in respect of any gold not required to be declared under clause (a) or clause (b) or clause (c) or under the foregoing proviso, a declaration or further declaration as to the quantity, description and other prescribed particulars of or relating to such gold shall be made to the Administrator by such person and in such form and manner and within such time as may be prescribed.

Explanation.—For the purposes of this sub-section and section 17, the expression "family" shall be deemed to consist of—

(i) the husband, wife and one or more minor children, or

(ii) any two or more of them,

but shall not be deemed to include any other person.

(7) Any person in possession or control of any gold, not being ornament, shall be presumed, until the contrary is proved, to be the owner thereof.

Declaration as to possession of ornaments.

17. (*1*) Where the Central Government is of the opinion that it is necessary so to do for carrying out the purposes of this Act, that Government may at any time, by general or special order, require that any person or class of persons owning ornaments shall, within such period as may be specified in the said order, make a declaration to the Administrator in the prescribed form as to the quantity, description and other prescribed particulars of the ornaments owned by such person or each person in that class:

Provided that it shall not be necessary to make any such declaration where the value, calculated in the prescribed manner, of the ornaments does not exceed—

(*a*) where such ornaments are owned by a person, twenty-five thousand rupees;

(*b*) where such ornaments are owned by a family, fifty thousand rupees.

Explanation.—For the purposes of this section, any person in possession or control of any ornament shall be presumed, until the contrary is proved, to be the owner thereof.

(*2*) If any person who has made a declaration under sub-section (*1*) acquires or parts with any ornament after such declaration, he shall, as often as he acquires or parts with any ornament, make within thirty days from the date of such acquisition or parting with a further declaration to the Administrator in the prescribed form stating the quantity, description and other prescribed particulars of such ornament acquired or parted with by him and giving the prescribed particulars of the person from whom such ornament was acquired or in whose favour such ornament was parted with, as the case may be.

(*3*) If any person who, at any time during the period within which the declaration referred to in sub-section (*1*) is to be made, does not own any ornament, or owns ornaments not exceeding in quantity or value such limit as may be specified by the Central Government under sub-section (*1*), acquires thereafter any ornament or ornaments so as to exceed such limit, he shall, within thirty days from the date the limit is exceeded, make a declaration to the Administrator in the prescribed form stating the quantity, description and other prescribed particulars of such ornament or ornaments owned by him on the date of such declaration.

(*4*) If any person who has made a declaration under sub-section (*3*) acquires or parts with any quantity of ornaments, he shall.

as often as he acquires or parts with any quantity of ornaments, make, within thirty days from the date of such acquisition or parting with, a further declaration to the Administrator as provided in sub-section (2).

CHAPTER V

ADMINISTRATOR

Appointment and functions of Administrator.

18. (1) The Central Government shall, by notification in the Official Gazette, appoint an Administrator for carrying out the purposes of this Act.

(2) The Administrator shall discharge his functions subject to the general control and directions of the Central Government.

(3) The Administrator may by general or special order authorise such person (including any officer or authority subordinate to a State Government) as he thinks fit to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers:

Provided that no officer below the rank of Collector of Customs or Central Excise or Collector of a district shall be authorised to hear appeals under sub-section (2) of section 30.

(4) Subject to any general or special direction given or condition attached by the Administrator, any person authorised by the Administrator to exercise any powers may exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by way of authorisation.

CHAPTER VI

RETURNS AND ACCOUNTS

Returns as to gold.

19. Dealers (including certified goldsmiths) and refiners, shall furnish to the Administrator such returns as to the quantity description and other prescribed particulars of gold in their possession or under their control in such form and within such time as may be prescribed, and different returns may be prescribed for different classes of dealers or refiners.

Accounts.

20. (1) Dealers (including certified goldsmiths) and refiners, shall keep such accounts and in such form and manner as may be prescribed of the gold held, bought or sold or otherwise received or disposed of by them, in respect of each transaction and different accounts may be prescribed for different classes of dealers or refiners.

(2) Every such dealer, certified goldsmith and refiner shall, if so required by the Administrator,—

(a) produce before the Administrator any account, register or other document, and

(b) furnish to the Administrator any information relating to the quantity of gold in his possession or under his control or to the purchase, sale or delivery of gold by him.

(3) All accounts, registers and other documents, relating to any quantity of gold or to the purchase, sale or delivery thereof and any gold in the possession or under the control of the dealer, refiner or certified goldsmith, wherever kept, shall be open to inspection by any person authorised by the Administrator in this behalf.

CHAPTER VII

MISCELLANEOUS PROVISIONS

Power of Administrator to issue directions and orders.

21. (1) The Administrator may, if he thinks fit, issue directions or orders, not inconsistent with this Act, for carrying out the purposes of this Act.

(2) The Administrator, so far as it appears to him to be necessary or expedient for securing the equitable distribution and availability at fair prices of gold and ornaments, may by order published in the Official Gazette,—

(a) regulate the prices at which any gold or ornament may be bought or sold by any dealer or refiner, and

(b) regulate by licences, permits or otherwise, the distribution, transport, disposal, acquisition, possession, use or consumption of gold by dealers or refiners or other persons.

Persons permitted to buy gold to observe conditions

22. Any person authorised by the Administrator by general or special order, or holding a permit issued by the Administrator, for buying or otherwise acquiring gold shall observe such conditions, be subject to such restrictions and furnish such accounts or returns, or both, to the Administrator, as may be prescribed.

Prohibition of use of buildings for carrying on unlicensed refinery.

23. No person,—

(a) being the owner, lessor or landlord of any premises or the agent of such owner, lessor or landlord, shall let the same or any part thereof with the knowledge that the same or part thereof is intended to be used as a refinery or wilfully allow any person to use such premises or any part thereof as a refinery unless the refiner has been licensed under this Act; or

(b) being the tenant, lessee or occupier or any person in charge of any premises, shall use or allow any person to use

such premises or any part thereof as a refinery unless the refiner has been licensed under this Act.

Transfer or Transmission of business.

24. Where the business of a dealer licensed or registered under this Act or a refinery is transferred by sale, gift, bequest or otherwise or is transmitted by inheritance or is transferred by way of lease, the transferee, heir or lessee shall not carry on such business or run the refinery either in his own name or in some other name unless the transferee, heir or lessee has, before the expiry of sixty days after the date of such transfer or transmission, made to the Administrator an application for the issue of a licence or certificate of registration in accordance with the provisions of section 7 or section 8 or section 14:

Provided that nothing in this section shall be deemed to prohibit the transferee, heir or lessee from carrying on business as a dealer or refiner for the period within which he is required to apply for such licence or registration and if he has applied for such licence or registration, until he is granted the licence or certificate of registration or is, by a notice in writing, informed by the Administrator that such licence or certificate cannot be granted to him.

Secrecy and fidelity.

25. (*1*) All particulars contained in any return or declaration made or accounts, registers or other documents produced in accordance with this Act shall, save as otherwise provided in sub-section (*4*), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall be entitled to require the Administrator or any person authorised by the Administrator under this Act or any officer or other employee of the Government to produce before it any such return, declaration, accounts, registers or other documents or any part thereof or to give evidence before it in respect thereof.

1 of 1872.

(*2*) Any person authorised by the Administrator under this Act and any other person discharging any functions in the implementation of the provisions of this Act shall not divulge any information relating to any particulars contained in any return or declaration made to, or any accounts, registers or other documents produced before, or inspected by, the Administrator or any such person.

(*3*) The Administrator or any gazetted officer authorised by him in this behalf may request any officer of Government to furnish any information relating to any particulars contained in any return or declaration made to, or any accounts, registers or other documents produced before or inspected by such officer of Government under the provisions of any law if, in the opinion of the Administrator or the gazetted officer aforesaid, such information is necessary for the

implementation of the provisions of this Act; and when such request is made, the officer of Government shall comply with such request notwithstanding the provisions of any such law forbidding the furnishing of such information.

(4) Nothing in this section shall apply to and in relation to the disclosure of any of the particulars referred to in sub-section (1) or sub-section (2)—

(a) for the purposes of any prosecution for any offence, or

(b) to any officer or other employee of Government where it is necessary to make such disclosure to such officer or other employee for the purposes of this Act or of any other law.

Power to enter, search and seize, to obtain information and to take samples.

26. (1) Any officer authorised by the Administrator in this behalf may—

(a) enter and search the establishment of a dealer or any refinery;

(b) seize any gold in respect of which he suspects that any provision of this Act has been, or is being, or is about to be, contravened, along with the package, covering or receptacle, if any, in which such gold is found;

(c) seize any books of account, return or any other document relating to any gold in respect of which he suspects that any provision of this Act has been, or is being, or is about to be, contravened.

(2) Any officer authorised by the Central Government in this behalf may—

(a) enter and search any premises, not being a refinery or establishment referred to in sub-section (1), vaults, lockers or any other place whether above or below ground;

(b) seize any gold in respect of which he suspects that any provision of this Act has been, or is being, or is about to be contravened, along with the package, covering or receptacle, if any, in which such gold is found;

(c) seize any books of account, return or any other document relating to any gold in respect of which he suspects that any provision of this Act has been, or is being, or is about to be, contravened.

(3) Any officer authorised by the Administrator in this behalf may search any person if that officer has reason to believe that such person has secreted about his person—

(*a*) any gold in respect of which such officer suspects that any provision of this Act has been, or is being, or is about to be contravened,

(*b*) any document relating to such gold,

and seize any such gold or document in his possession.

(4) When any such officer as aforesaid is about to search the person referred to in sub-section (*3*), he shall, if such person so requires, take such person to the nearest gazetted officer authorised by the Administrator or to the nearest magistrate.

(5) Any officer authorised by the Administrator in this behalf may, if he suspects that any person has contravened, or is contravening or is about to contravene any provision of this Act, detain such person and take him to a gazetted officer authorised by the Administrator or to a magistrate for a search of his person and seizure of any such gold or document as is referred to in sub-section (*3*).

(*6*) A gazetted officer or magistrate before whom any person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made.

(7) No female shall be searched by any one excepting a female.

(*8*) Any officer authorised by the Administrator in this behalf may, if he has reason to believe that any person has contravened, or is contravening or is about to contravene, any provision of this Act, arrest such person and shall as soon as possible inform him of the grounds for such arrest and shall take such arrested person to the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(*9*) Any officer who has arrested any person under this section shall, for the purpose of releasing such person on bail or otherwise have the same powers and be subject to the same provisions as the officer-in-charge of a police station has and is subject to under the Code of Criminal Procedure, 1898.

5 of 1898.

(*10*) Any officer authorised by the Administrator in this behalf may, if he has reason to believe that any aircraft, vehicle or animal or any vessel is being, or is about to be, used for carrying any gold in respect of which he suspects that any provision of this Act has been, or is being, or is about to be, contravened, at any time stop any such vehicle, animal or vessel or, in the case of an aircraft, compel it to land, and

(*a*) rummage and search any part of the aircraft, vehicle or vessel;

(*b*) examine and search any goods in the aircraft, vehicle, vessel or on the animal;

(*c*) seize any such gold as is referred to above and any books of account or other document relating to such gold;

(*d*) break open the lock of any door or package for exercising the powers conferred by clauses (*a*), (*b*) and (*c*), if keys are withheld;

(*e*) if it becomes necessary to stop any such aircraft, vehicle or animal or vessel, he may use all lawful means for stopping it, and where such means fail, the aircraft, vehicle, vessel or animal may be fired upon.

(*11*) The provisions of the Code of Criminal Procedure, 1898, relating to search and seizure shall, so far as they are applicable, apply in relation to search and seizure made under this section. 5 of 1898.

(*12*) The Administrator shall have power—

(*a*) to take samples of gold from any dealer, refiner or other person in such manner as may be prescribed;

(*b*) to send such sample for assay or analysis to such authority as may be prescribed and to require such authority to send a report to the Administrator as a result of the assay or analysis.

(*13*) Where at the time of arrest of any person or seizure of any gold, document or other goods in the possession of any person, such person makes a statement to the officer making such arrest or seizure, that officer shall on demand by such person furnish him with a copy of the statement.

Explanation.—Any reference to gold in this section and in sections 29 and 30 shall, unless the context otherwise requires, include any article containing gold of any purity, referred to in sub-section (*1*) of section 3.

Power to hold inquiry and to call for information.

27. (*1*) Any gazetted officer authorised by the Administrator in this behalf may hold an inquiry for the purpose of ascertaining whether any contravention of any of the provisions of this Act has been, is being, or is about to be, committed and shall for the purposes of such inquiry have power to summon any person whose attendance he considers necessary either to give evidence or to produce any document or other thing.

(*2*) The Administrator may call for information from any person for the purpose of ascertaining whether or not there has been any contravention of any of the provisions of this Act.

Confiscation of conveyances.

28. (*1*) The following conveyances shall be liable to seizure and confiscation:—

(*a*) any vessel which is or has been within the Indian waters, any aircraft which is or has been in India or any vehicle which is or has been in any area in India, while constructed, adapted, altered or fitted in any manner for the purpose of concealing gold;

(*b*) any conveyance from which the whole or any part of gold is thrown over-board, staved or destroyed so as to prevent seizure by any officer authorised by the Administrator;

(*c*) any conveyance which having been required to stop or land under sub-section (*10*) of section 26 fails to do so, except for good and sufficient cause;

(*d*) any conveyance from which any gold cleared for exportation is unloaded without the permission of the officer authorised by the Administrator in this behalf;

(*e*) any conveyance carrying imported gold which has entered India and is afterwards found with the whole or substantial portion of such gold missing, unless the master of the vessel or aircraft is able to account for the loss of, or deficiency in, the gold.

(*2*) Any conveyance or animal used as a means of transport or in the carriage of any gold in respect of which any provision of this Act has been, or is being or is about to be, contravened, shall be liable to seizure and confiscation, unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal and that each of them had taken

all such precautions against such use as are for the time being specified in the rules made in this behalf by the Central Government:

Provided that where any such conveyance or animal is used for the carriage of goods or passengers for hire, the owner of the conveyance or animal shall be given an option to pay in lieu of confiscation of the conveyance or animal, a fine not exceeding the value of such conveyance or animal.

Confiscation of gold seized and imposition of penalty.

29. (*1*) Any gold seized under section 26 together with the package, covering or receptacle, if any, in which such gold is found shall be liable to confiscation.

(*2*) Any person who in relation to any gold does or omits to do any act which act or omission would render such gold liable to confiscation under sub-section (*1*), or abets the doing or omission of such an act shall be liable, in addition to any liability for punishment under this Act, to a penalty not exceeding five times the value of the gold or one thousand rupees, whichever is more, irrespective of whether such gold has been confiscated.

Adjudication, appeal and revision.

30. (*1*) The confiscation, fine or penalty under section 28, section 29, proviso to sub-section (*3*) of section 31 or sub-section (*8*) of this section or under any rule made under this Act may be adjudged—

(*a*) without limit, by an officer not below the rank of Deputy Collector of Customs or Central Excise;

(*b*) where the value of conveyance or animal or gold or all of them together with the package, covering or receptacle, if any, in which such gold is found, liable to confiscation does not exceed ten thousand rupees, or where the fine or penalty proposed to be imposed does not exceed two thousand rupees, by an officer not below the rank of Assistant Collector of Customs or Central Excise or by any other officer of the Central Government or a State Government authorised by the Central Government in this behalf:

Provided that no order of adjudication of confiscation, fine or penalty shall be made unless the owner of the conveyance, animal or gold or other person concerned—

(*i*) is given a notice in writing informing him of the grounds on which it is proposed to confiscate such conveyance, animal or gold or to impose a penalty;

(*ii*) is given an opportunity of making a representation in writing within such reasonable time as may be specified in

the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(*iii*) is given a reasonable opportunity of being heard in the matter:

Provided further that the notice referred to in clause (*i*), and the representation referred to in clause (*ii*), of the foregoing proviso may, at the request of the owner or other person concerned, be oral:

Provided also that where no such notice is given within a period of six months of the seizure of the conveyance, animal or gold or such further period as the Collector of Customs or Central Excise may specify, such conveyance, animal or gold shall be returned after the expiry of that period to the person from whose possession it was seized.

(*2*) An appeal shall lie to the Administrator—

(*a*) from every order of adjudication of confiscation, fine or penalty under sub-section (*1*),

(*b*) from any other decision or order passed by an officer not above the rank of Collector of Customs or Central Excise,

within a period of three months from the date of the communication of the order or decision.

(*3*) Every person adjudicating under this section and the Administrator hearing any appeal under sub-section (*2*) shall have all
5 of 1908. the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of witnesses;

(*b*) requiring the discovery and production of any document;

(*c*) requisitioning any public record or copy thereof from any court or office;

(*d*) receiving evidence on affidavits; and

(*e*) issuing commissions for the examination of witnesses or documents.

(*4*) Every person adjudicating under this section and the Administrator hearing any appeal shall be deemed to be a civil court

for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898. 5 of 1898.

(5) The Administrator may, of his own motion, call for and examine the record of any proceeding in which any order of adjudication of confiscation, fine or penalty, or any other decision or order, referred to in clause (*b*) of sub-section (2), has been made, but no appeal against such order or decision has been preferred under that sub-section, for the purpose of satisfying himself as to the legality or propriety of any such order or decision and may pass such order thereon as he thinks fit:

Provided that no order enhancing any penalty or fine in lieu of confiscation shall be passed under this provision unless the person affected by the proposed order has been given a reasonable opportunity of showing cause against it:

Provided further that no order shall be passed by the Administrator under this sub-section after the expiry of two years from the date of the order or decision referred to in sub-section (2).

(6) The Central Government may, of its own motion or on application made by any person aggrieved by an order passed on appeal under sub-section (2) or on revision under sub-section (5) within six months from the date of communication of such order, call for and examine the record of any proceeding in which such order has been passed on appeal or revision for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order thereon as the Central Government thinks fit.

(7) Notwithstanding anything contained in any other law—

(*a*) any order passed by the Central Government in revision,

(*b*) subject to such order of the Government, any order passed on appeal or revision under sub-section (2) or sub-section (5), and

(*c*) subject to the final order of the Central Government in revision and the order on appeal or revision under sub-section (2) or sub-section (5) any order of adjudication of confiscation, fine or penalty, or any other decision or order referred to in clause (*b*) of sub-section (2),

shall be final and shall not be called in question in any court except on a question of law.

(8) Whenever confiscation of any gold or conveyance or animal is authorised by this Act, the officer adjudging it may give to the

owner thereof an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provided that, without prejudice to the provisions of the proviso to sub-section (2) of section 28, such fine shall not exceed the value of such gold, conveyance or animal.

(9) For the removal of doubt it is hereby declared that the payment of fine in lieu of confiscation under sub-section (8) shall not prevent the infliction of any punishment to which the person affected is liable under the provisions of this Act.

Penalties.

31. (1) Whoever fails or omits to make any return as required by section 15 or 19 or any declaration including a further declaration as required by section 16 or 17 without any reasonable cause, or makes any statement in such return or declaration which is false and which he either knows or believes to be false or does not believe to be true, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Whoever,—

(i) refines, processes, melts, converts, deals or makes, manufactures or prepares any article of gold in contravention of any provision of this Act,

(ii) has in his possession or under his control any quantity of gold in contravention of any provision of this Act,

(iii) sells or otherwise transfers or agrees to sell or transfer, or exposes or offers for sale or transfer, or delivers or otherwise parts with, any gold in contravention of any provision of this Act,

(iv) buys, or otherwise acquires, or accepts gold in contravention of any provision of this Act,

(v) allows any person to use any premises or any part thereof as a refinery in contravention of any provision of this Act,

(vi) makes, manufactures or prepares, or places any order for the making, or the manufacture or preparation of, sells or otherwise transfers or agrees to sell or transfer, or exposes or offers for sale or transfer any ornament or any primary gold in contravention of section 3 or section 4 or any other provision of this Act,

(vii) possesses, delivers, sells or otherwise transfers any gold in contravention of the provisions of section 5 or section 6,

(*viii*) carries on business as a dealer, refiner, banker or money-lender in contravention of the provisions of section 6, 7, 8 or 14,

(*ix*) carries on business as a certified goldsmith in contravention of the provisions of section 13,

(*x*) falsely stamps any primary gold with the intention of causing it to be believed that such primary gold contains gold of such purity as is mentioned in such stamp or sells or otherwise transfers, or agrees to sell or otherwise transfer or exposes or offers for sale or transfer any such falsely stamped primary gold,

(*xi*) makes or counterfeits any stamp intending that the same shall be used for the purpose of stamping any primary gold, knowing the same to be counterfeit, or uses any such counterfeit stamp,

shall be punishable with imprisonment for a term which may extend to two years and also with fine.

(3) Whoever contravenes any other provision of this Act for which no punishment is provided in the foregoing provisions of this section shall be punishable with imprisonment for a term which may extend to one month, or with fine, or with both:

Provided that—

(*i*) whoever fails or omits to keep or to produce any account or other document or to furnish any information when required to do so under any provision of this Act;

(*ii*) whoever fails or omits to display any licence as required by section 12,

shall be liable to a penalty not exceeding five hundred rupees to be adjudged under sub-section (1) of section 30.

Offences by companies.

32. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director" in relation to a firm, means a partner in the firm.

Limitation of prosecutions.

33. No prosecution for any offence punishable under this Act shall be instituted against any person except by, or with the consent of, the Administrator or any person authorised by the Administrator in this behalf.

Protection of action taken in good faith.

34. (*1*) No suit, prosecution or other legal proceedings shall lie against the Central Government or the Administrator or any person, authorised by the Central Government or the Administrator, or performing any functions in the implementation of the provisions of this Act, for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act or any rule or order made thereunder.

(*2*) No suit or other legal proceedings shall lie against the Central Government or the Administrator or any person, authorised by the Central Government or the Administrator, or performing any functions in the implementation of the provisions of this Act, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act or any rule or order made thereunder.

Administrator, etc. to be public servants and application of certain provisions of Central Excises and Salt Act.

35. (*1*) The Administrator and any person authorised by him or the Central Government, and performing any functions in the implementation of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

(*2*) The provisions of sections 11, 15 and 23 of the Central Excises and Salt Act, 1944, relating to—

1 of 1944.

(*i*) recovery of any sum payable to the Government, or

(*ii*) rendering of assistance by any officer of Police or Customs or **Revenue, and**

(*iii*) failure of any Central Excise Officer, on duty,

respectively, shall apply subject to such modifications and adaptations as may be specified by the Central Government by notification in the Official Gazette in regard to like matters under the provisions of this Act.

Power to except.

36. Where on the recommendation of the Administrator or otherwise the Central Government is of the opinion that it is necessary or expedient in the public interest so to do, it may, by order and subject to such conditions, if any, as it may specify in the order—

(*a*) exempt any dealer or any refiner or any other person from the operation of all or any of the provisions of this Act; and

(*b*) as often as may be, revoke any such order and again subject, by order any dealer or any refiner or any other person to the operation of such provisions.

Effect of Act and rules, etc., inconsistent with other enactments.

37. The provisions of this Act or any rules or orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

Act not to apply to Government.

38. Nothing in this Act shall apply to or in relation to—

(*a*) any gold belonging to, or in the possession or under the control of, the Government,

(*b*) any refinery owned or occupied, or any business of a dealer carried on, by the Government.

Government may perform functions and exercise powers of the Administrator.

39. The Central Government may perform all or any of the functions of the Administrator and may, by notification in the Official Gazette, exercise all or any of the powers conferred by this Act on the Administrator, if that Government is of the opinion that it is necessary or expedient in the public interest so to do.

Licensing of dealers in areas without sales tax law.

40. If in any territory there is no law with respect to sales tax in force, then, every dealer carrying on his business as such dealer in that territory, whose annual turnover is not less than ten thousand rupees, shall be required to be licensed in accordance with the provisions of this Act as if he were a dealer registered under law with respet to sales tax and accordingly all the provisions of this Act shall apply to such registered dealer.

Presumption as to orders.

41. Where an order purports to have been signed by any person authorised by the Administrator in this behalf in exercise of any power conferred by or under any provision of this Act, a court shall presume, within the meaning of the Indian Evidence Act, 1872, that such order was so made by that person.

1 of 1872.

Power to make rules.

42. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the additional particulars to be stamped on each piece of primary gold;

(*b*) the conditions subject to which a pawnee may sell gold pledged with him;

(*c*) the forms of applications for the grant or renewal of licences, permits and certificates under this Act and the fees payable in respect of such applications;

(*d*) the forms of such licences, permits and certificates;

(*e*) the procedure for registration of a dealer under section 14;

(*f*) the accounts to be maintained and the returns to be submitted by public religious institutions under section 15;

(*g*) the forms of declarations under sections 16 and 17 and the particulars regarding gold or persons from whom or in whose favour it was acquired or parted with, as the case may be;

(*h*) the forms in which, and the period within which, returns as to gold shall be submitted by dealers and refiners under section 19;

(*i*) the forms in which accounts shall be kept by dealers and refiners under section 20 and the manner of keeping such accounts;

(*j*) the conditions and restrictions subject to which persons may be permitted to buy gold and the accounts and returns to be furnished by such persons;

(*k*) the precautions to be taken against the use of any conveyance or animal as a means of transport or in the carriage of gold in contravention of the provisions of this Act;

(*l*) the fees payable in respect of appeals and applications for revision under this Act;

(*m*) the manner of publication of notices and orders under this Act;

(*n*) any other matter which has to be or may be prescribed.

(*3*) In making rules under this section, the Central Government may provide that any person committing any breach of any rule shall, where no other penalty is provided by this Act, be liable to a penalty not exceeding two thousand rupees.

(*4*) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and savings.

43. (*1*) As from the commencement of this Act, the provisions of Part XIIA of the Defence of India Rules, 1962, shall stand repealed and upon such repeal, section 6 of the General Clauses Act, 1897, shall apply as if the said Part were a Central Act. 10 of 1897.

(*2*) Notwithstanding such repeal, but without prejudice to the application of section 6 of the General Clauses Act, 1897, anything done or any action taken (including any application made to, or any order made or licence issued by, the Gold Board, Administrator or other competent authority) under or in pursuance of the provisions of Part XIIA of the Defence of India Rules, 1962, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under or in pursuance of the corresponding provision of this Act. 10 of 1897.

R. C. S. SARKAR,
Secy. to the Govt. of India.

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